NO._____

IN THE SUPREME COURT OF THE UNITED STATES

_____

STEPHEN PIERRE-PAUL,

Petitioner

v.

THE UNITED STATES OF AMERICA,

Respondent.

ON A PETITION FOR A WRIT OF CERTIORARI TO

THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Due Process requires a criminal conviction be obtained by proof beyond a reasonable doubt. Cooperating witness testimony is admissible evidence, though juries are specifically instructed to give such testimony stricter scrutiny. In Mr. Pierre-Paul's case, inconsistent testimony by a cooperating co-defendant constituted all of the direct evidence against him, including evidence of "consciousness of guilt" that not only prejudiced him at trial, but was used as the foundation for a sentencing enhancement.

The questions presented here are:

1. Is a conviction based on inconsistent and contradictory testimony of a cooperating co-defendant sufficient to sustain a conviction?
2. Is the probative value of vague testimony of that same biased and inconsistent witness to an alleged attempt to influence him not to testify outweighed by the substantial prejudice?
3. Is the same testimony, lacking content and context, sufficient to warrant an enhancement pursuant to United States Sentencing Guideline § 3C1.1?

LIST OF PARTIES

All parties do not appear in the caption of the case on the cover page. The parties to the proceedings before the Fourth Circuit Court of Appeal, whose judgment is the subject of this petition, are Stephen Pierre-Paul (Petitioner, Appellant below), Wayne Ricard Taylor (Appellant below), and the United States of America (Respondent, Appellee below).

RELATED CASES

Petitioner's appeal was consolidated with that of his co-defendant at trial, Wayne Ricardo Taylor. *See United States v. Taylor,* 1:21cr144-TSE-4 (E.D.Va.); *United States v. Taylor*, 22-4191 (4th Cir. 2025).

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IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR WRIT OF CERTIORARI

Petitioner respectfully prays that a writ of certiorari issue to review the judgment below.

OPINIONS BELOW

The opinion of the United States court of appeals appears at Appendix A to the petition and is unpublished.

JURISDICTION

The date on which the United States Court of Appeals for the Fourth Circuit issued its ruling in Petitioner's case was January 7, 2025, and no petition for rehearing was filed. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The provisions of law involved in this Petition are the Fifth Amendment to the United States Constitution, Federal Rules of Evidence 403 and 404, United States Sentencing Guideline § 3C1.1, 18 U.S.C. §§ 2, 924(c)(1)(A), 1951(a), 2119, 3231, and 3742, as well as 28 U.S.C. § 1291.

STATEMENT OF THE CASE

A Grand Jury sitting for the Eastern District of Virginia returned an Indictment on June 17, 2021 charging Petitioner Stephen Pierre-Paul with Count I:

Conspiracy to Obstruct Commerce by Robbery in violation of 18 U.S.C. § 1951(a), Count II: Obstruction of Commerce by Robbery in violation of 18 U.S.C. §§ 2 and 1951(a), Count III: Carjacking in violation of 18 U.S.C. §§ 2 and 2119, and Count IV: Use, Carry, or Brandishing of Firearm During and in Relation to a Crime of Violence in violation of 18 U.S.C. §§ 2 and 924(c)(1)(A).

On March 31, 2021, long-haul trucker Mamadou Diallo ("Diallo") embarked on a trip in his 18-wheeler from Atlanta, Georgia to New Jersey. At around the same time, a group of young men left Queens, New York in a 15-passenger van. The young men were under the direction of an individual by the name of Auk ("Auk"), for what was represented to be a moving job. Just after 3 a.m. on April 1, 2021, Diallo stopped to gas up his eighteen-wheeler and rest for the night at a Sheetz gas station in Mt. Jackson, Virginia. As he came out from the station after paying for his diesel gas, Diallo was attacked by a man with a gun who was by all accounts *not* Mr. Pierre-Paul, and as Diallo turned to run, he was tripped by cooperating co-defendant Odane Butler ("Butler").

While the next few minutes were described as "unclear," Diallo testified, a third man came from the van "just to stop me" and "they tried to put me back–to get me towards the *truck*." (Emphasis added). Then, a fourth man, according to Diallo, came from the van and "was trying to put me into the *van*." (Emphasis added). Although Diallo testified that four people forced him inside the van, only

three people remained in the van with him–the driver, and two in the back with him. In addition, video evidence and the testimony of an eyewitness confirm that only two or three men–including a man with a gun and Butler–dragged Diallo back to his truck, and then to the van.

Islom Absalov was an eyewitness to some of the events transpiring at the Sheetz gas station. On direct examination, Mr. Absalov first testified that he saw some indeterminate number of people–at first characterized by both the government and the witness as merely "they"–"trying to grab [Diallo] and put him in the [black van]." He was then shown a surveillance video from the Sheetz, which shows much of the incident involving the charged offenses. Mr. Pierre-Paul is not seen on the video and Mr. Absalov did not identify Mr. Pierre-Paul. After viewing the video, Mr. Absalov was asked followup questions by the government, and in response Mr. Absalov described watching the scene from inside his vehicle, and pulling up near the gas pumps to observe. When asked how many people he saw forcing Diallo into the van, Absalov testified "I thought there were two or three, and there were two or three around, truck drivers."In fact, the security camera video shows Diallo running, Butler tripping him and Auk dragging Diallo toward the van. The video does not show Mr. Pierre-Paul at all.

After being forced into the side door of the back portion of the 15-passenger van, Diallo was held down by two men–Auk at his head, and another man at his

feet who bound them with a belt. According to his testimony, only the man with the gun spoke to Diallo in the van.

The van was driven away from the Sheetz by co-defendant Crossman, and Diallo's truck was driven by co-defendant Taylor, testified that Mr. Pierre-Paul slept *toward the back of the 15-passenger van* the entire trip to Virginia and (during an aggressive cross-examination and each of the five times that he was asked) that during the offense perpetrated by Auk and Butler, he did not ever see Mr. Pierre-Paul get out of the van, and that Mr. Pierre-Paul was in fact innocent.

At some point, the driver of the van pulled over and three people transferred Diallo from the van to the bed of his truck. These three people, according to the Diallo, were the two people in the back of the van and a third man who could have been the driver of the van, but he is not sure. What he was sure of was that *"the two people who were holding me, they didn't move from me from the beginning.*" *Id*. (Emphasis added). The same men who had held him in the back of the van pushed Diallo into the bed of his truck, leaving him bound, and got in with him. The man with the gun held Diallo's hands while in the truck bed.

At some point, "the shorter" man (ostensibly not the man with the gun) said he "had to pee." They did not stop, however, and they were stopped by police. During the traffic stop four individuals came out of Diallo's truck: Diallo, Taylor, Butler and an individual who ran off and escaped capture. (Presumed to be Auk).

Two firearms were located in that vehicle. Two people came out of the passenger van: Crossman and Mr. Pierre-Paul. Crime scene analysis found no traces of blood in the van from which Mr. Pierre-Paul exited.

In addition to the five people discovered when the tractor trailer and Ford van were stopped, cooperating co-defendant Odane Butler testified that he had *both arrived at and left* the scene in a U-Haul truck, driven by a seventh individual. This individual also remains at large, but his presence at the scene—his existence, even—arises solely in Butler's rendition of the events.

Prior to March 31, 2021, Butler didn't know Mr. Pierre-Paul. Despite "seeing him around the neighborhood," he had never met him before. This he confirmed twice: once in his attempt to correct his overstatement on direct that he had "known" Mr. Pierre-Paul for "like two years," stating immediately thereafter, ". . . like I don't really know him, know him like that, but I just seen him around," and again on cross examination. The individual he believed was Mr. Pierre-Paul on the night of the incident in question was wearing a hood and a mask.

Nonetheless, despite having driven to Virginia in a separate vehicle from Mr. Pierre-Paul and being admittedly "really intoxicated," Butler identified Mr. Pierre-Paul as one of the individuals who helped force Diallo into the van. As he continued, however, Butler equivocated, repeatedly. He said Pierre-Paul "didn't do anything, really" when he got out of the van. He also Mr. Pierre-Paul "pushed

[Diallo] into the vehicle," which he "guessed" was in response to Auk who, armed with a gun, "ordered [Mr. Pierre-Paul] to put [Diallo] in the vehicle." Finally, facing the incontrovertible video evidence, Butler said it was he and Auk ho pulled Diallo "back to the truck." He also admitted that while this was happening, he was admittedly "standing right next to the truck" and "never went into the van . . . never *seen* the van."

Butler was also asked at trial if "somebody talked to him about what he might say on the witness stand at trial," to which he replied "No." The government's leading follow-up question was "Nobody approached you at the microwave?" to which Butler replied "Oh, yes." When asked who approached him, Butler said "Mr. Taylor and Mr. Stephen." He went on to say that Taylor approached him first and "said that I shouldn't testify against them." Reportedly, this made him "a little bit scared."

Butler was then asked "And after that conversation, did you have a conversation with Mr. Pierre-Paul?" to which he replied "No." The government re-asked the same question in leading format, to wit: "You didn't have a conversation with Mr. Pierre-Paul?" to which Butler again replied, "No." The government asked a *third* time, "You didn't have a conversation with Mr. Pierre-Paul?" to which, again, Butler replied "No."

The government went on to ask, "Just Mr. Taylor?" which seemingly clarified the point for Butler who then said, "Oh, no, I thought you meant like after the whole fact that . . . ." and the government interrupted with "No, no, no, I meant while you were awaiting the opportunity to testify," to which Butler now said "Yes." Butler went on to say that after he spoke with Taylor (without more specificity as to time or place), that Mr. Pierre-Paul said, "basically the same thing." Asked to clarify what "the same thing" was, he said "Um, not to testify." About this, Butler reported feeling "the same way [he] felt about the first one," because "[he] didn't know how it may affect me." While the court clarified for the record that Butler said "he doesn't know how it would affect him if he testified," this is not in fact what Mr. Butler said.

On cross-examination by Mr. Pierre-Paul's counsel, Butler testified that his interaction with Mr. Pierre-Paul occurred after he had entered into his plea agreement, but then when challenged with fact, as he admitted, that the parties were subject to a "keep separate" order after Butler's plea was entered, changed his testimony to state that it occurred *before* he entered into his plea agreement.

On cross-examination by Taylor's counsel, Butler admitted that no threat whatsoever was made by Taylor, and that Taylor had simply said "you shouldn't testify."

At no time was the jury given clarification as to *what* Mr. Butler was "scared" of, what he meant by "it" or any potential unknown effect "it" would have on him. In other words, it is unclear what he was talking about when he said he wasn't sure how "*it* might affect him." By "it," it is not in the record whether he meant testifying, not testifying, or even simply talking to co-defendants at the jail.

On December 2, 2021, after a trial by jury, Mr. Pierre-Paul was acquitted of Count I and convicted of Counts II-IV. Counsel preserved a previously noted motion for acquittal pursuant to Fed. R. Crim. P. 29 after the jury's verdict was returned.

On March 11, 2022, the district court sentenced Mr. Pierre-Paul to 160 months' imprisonment (76 months on Counts II and III, concurrent, and 84 months on Count IV, consecutive). Included the in the district court's determination of the applicable advisory guideline range was the application of an enhancement pursuant to United States Sentencing Guideline § 3C1.1, to which Mr. Pierre-Paul objected. The same evidence offered in support of this enhancement was admitted into evidence at trial, over defense objection, to show "consciousness of guilt," pursuant to Fed. R. Civ. P. 404(b).

Mr. Pierre-Paul appealed his conviction and sentence to the Fourth Circuit Court of Appeals which, on January 7, 2025 issued an unpublished opinion finding the evidence sufficient to uphold his convictions and no error in either the

admission of evidence pursuant to 404(b) or the application of the obstruction enhancement.

REASONS FOR GRANTING THE PETITION

I. A Conviction Standing on No More than Unreliable Biased Cooperator Testimony is a Violation of Due Process

The Due Process Clause of the Fifth Amendment to the Constitution guarantees that an individual not be deprived of liberty by less than proof beyond a reasonable doubt. *In Re Winship*, 397 U.S. 358, 361-65 (1970); U.S. CONST., AMEND. V. While the testimony of cooperating witnesses who themselves committed the charged offense and who are seeking sentence reductions is certainly not inadmissible—and is unfortunately the foundation upon which many if not most federal prosecutions are built—it is subject to stricter scrutiny due to its inherent bias. Modern Federal Jury Instructions-Criminal, 7.11(2025):

> [B]ear in mind that a witness who has entered into such an agreement has an interest in this case different than any ordinary witness. A witness who realizes that he may be able to obtain his own freedom, or receive a lighter sentence by giving testimony favorable to the prosecution, has a motive to testify falsely. Therefore, you must examine his testimony with caution and weigh it with great care.

And while the law is reverential to jury's findings of fact including witness credibility, where the sole basis of a conviction is the inconsistent and self-contradictory testimony of a self-interested cooperating co-defendant, reverence is unfounded and the jury's finding is unreasonable. Moreover, when the lack of

credibility and substance to that witness' testimony about the offense is bootstrapped by that very witness' testimony regarding so-called 404(b) evidence, the admission of that evidence is much more prejudicial than probative of the underlying offense.

A. *Only Butler Testified to Mr. Pierre-Paul's Participation in the Attack on Diallo, and He Did So Inconsistently and with Equivocation as to Essential Elements*

Four trial witnesses testified about the attack on Diallo. The only wholly disinterested party who did not observe events while under attack was eyewitness Islom Absalov. Even he was mistaken about the number of men who dragged Diallo back to the van, but in any even he did not identify Mr. Pierre-Paul as a participant in the carjacking. Diallo also did not identify Mr. Pierre-Paul as one of his attackers. Co-defendant Taylor testified unequivocally that Mr. Pierre-Paul was sleeping at the back of an extended passenger van the entirety of the trip, that there was no discussion on the trip about a carjacking regardless, and that Mr. Pierre-Paul was innocent. Taylor's testimony was not in any way self-serving, and in fact if false held significant risk—not only of additional charges and enhancements, but of undermining his testimony about his own actions. Unlike Butler, Taylor had nothing to gain by exonerating Mr. Pierre-Paul.

Thus, the jury heard from only one individual that Mr. Pierre-Paul participated in the carjacking. Notably, his testimony did not support a conviction

to the conspiracy count, because he claims to have come to the site of the offense in a different vehicle—a statement uncorroborated by other evidence. This sole witness to claim that Mr. Pierre-Paul participated not only testified pursuant to a plea agreement, but inconsistently, at trial, about Mr. Pierre-Paul. Perhaps it was his conscience that caused him to equivocate and contradict himself, but Butler's story progressed from Mr. Pierre-Paul dragging Diallo, to Mr. Pierre-Paul dragging Diallo only at the order of an armed Auk, to Mr. Pierre-Paul not being one of the people dragging Diallo at all.

B. *Objective Evidence Contradicts Butler, Corroborates Taylor, and Exonerates Mr. Pierre-Paul*

Fortunately, there was another witness to the crime: the surveillance video. Mr. Pierre-Paul does not appear on that video, which corroborates Taylor's version, not Butler's. In addition, when law enforcement stopped the vehicles, Mr. Pierre-Paul was in the van, and his behavior during the stop (asking only if he could get his jacket out of the van) was also indicative of a disconnection from the brutal attack. Therefore, the only truly objective evidence contradicts Butler, who's testimony was due greater scrutiny simply by nature of his cooperation agreement.

II. The Admission of the so-called "Consciousness of Guilt" Evidence Violated FRE 403 Because it was More Prejudicial Than Probative in that it Bolstered the Testimony of the Unreliable Witness Through Whom it was Offered.

The evidence adduced at trial regarding an unspecified statement allegedly made by Mr. Pierre-Paul to Butler while the two were in pretrial detention was not subject to a pretrial 404(b) notice, not was it objected to at trial. While it was offered to illustrate consciousness of guilt, the government contends that it was in fact not even 404(b), but intrinsic to the conspiracy (of which Mr. Pierre-Paul was acquitted). It was not intrinsic to a conspiracy to carjack Diallo to months later make a passing comment, of unknown words in an unknown context, about whether or not Butler should testify. The *only* means of admission for this type of testimony is 404(b) which requires pretrial notice. However, in Mr. Pierre-Paul's case, the evidence was not qualitatively significant enough to overcome the extreme prejudice. *See* FRE 403, 404. Where there was little else to suggest Mr. Pierre-Paul was a participant, this evidence was *highly* prejudicial, and given the source and the content, wholly unreliable. Butler couldn't even remember what Mr. Pierre-Paul *said*.

The prejudice before the jury was exacerbated by the use of the evidence for the purposes of also enhancing Mr. Pierre-Paul's sentence, as discussed below.

III. The District Court Erred in Applying Obstruction or Impeding The Administration of Justice Enhancement Pursuant to USSG §3C1.1.

USSG §3C1.1 provides:

> If (1) the defendant willfully obstructed or impeded, or attempted to obstruct or impede, the administration of justice with respect to the investigation, prosecution, or sentencing of the instant offense of conviction, and (2) the obstructive conduct related to (A) the defendant's offense of conviction and any relevant conduct; or (B) a closely related offense, increase the offense level by **2** levels.

The enhancement for obstruction of justice under 3C1.1 of the United States Sentencing Guidelines requires a finding that the defendant "willfully obstructed or impeded, or attempted to obstruct or impede, the administration of justice" with respect to the "investigation, prosecution, or sentencing of the offense of conviction." USSG § 3C1.1. Furthermore, in this case, there must be a determination that M. Pierre-Paul threatened, intimidated, or otherwise *unlawfully* influenced a co-defendant, witness, or juror, directly or indirectly, or attempting to do so. *Id.* at Application Note 4(A).

1. Lack of Specific Intent to Obstruct Justice

Butler did not testify as to *what Mr. Pierre-Paul* said. We therefore canno infer intent from the words themselves, and in fact have no basis on which to do so. But Butler admitted he was not threatened, although he felt worried.

2. **Lack of Evidence of Unlawful Influence**

The enhancement doesn't prohibit "influence," but only "unlawful influence." It is important to note that in this case, there is no evidence that Mr. Pierre-Paul was aware of the status of Butler's case. We don't know when the alleged statement happened (if it happened at all) but it had to have been *before* he pleaded guilty. At that time, from Mr. Pierre-Paul's perspective, Butler is just a co-defendant, not a cooperator and not a witness.

Thus, in that context, a co-defendant might say, "I might testify at trial." Many people including his co-defendants may very well suggest that he reconsider or even *not* testify, *for his own good*. Barring an agreement to do so, a defendant has the absolute right *not to testify*. It is not obstruction to tell him not to.

Or, a co-defendant may seek out advice by saying, "I'm not sure what I should do. My lawyer wants me to cooperate and testify, but I don't want to," and in response a co-defendant says, "Then you shouldn't," or even, "Don't." This would be the type of conversation that *anyone* might have with the witness, including family, friends, cellmates, counsel, etc., and it's not unlawful.

But even had Butler's entire case been an open book at the time of the alleged statement, a fellow inmate might still say "You shouldn't testify," and this alone without intent would not qualify for the enhancement. If, for example, the word in the jail was that Rule 35 motions aren't coming quickly enough and/or the

requested reductions are negligible. Or it could even be as simple as one defendant knowing the other plans to lie on the stand. In either case, saying "Don't do it," is not an attempt to exert "unlawful influence."

These examples are to illustrate that even assuming Butler was telling the truth about Mr. Pierre-Paul making some statement to him regarding testifying or not (which is not a fair assumption given all of his contradictions and inconsistencies), we don't know *what* Mr. Pierre-Paul allegedly said or *when* he said it, except it had to be before Butler's plea. As a result, we can't even try to infer *why* he made the statement and are left only with Butler's interpretation, which was that it was non-threatening.

3. Circuit Differences in Interpreting 3C1.1

Circuit courts have adopted varying approaches to the application of § 3C1.1 which has resulted in disparate treatment of defendants accused of similar conduct. In this case, the Fourth Circuit has upheld the enhancement despite a dearth of any evidence as to what actually occurred or Mr. Pierre-Paul's state of mind. The Fifth Circuit, on the other hand, found that § 3C1.1 n.4 targets "egregiously wrongful behavior whose execution requires a significant amount of planning and presents an inherently high risk that justice will in fact be obstructed." *See United States v. Ortega*, 93 F.4th 278, 282 (5th Cir. 2024), *citing United States v. Greer,* 158 F.3d 228, 235 (5th Cir. 1998). The Fifth Circuit cites to this Court's finding that

"persuasion . . . is by itself innocuous," *Arthur Andersen LLP v. United States*, 544 U.S. 696, 703, 125 S. Ct. 2129, 161 L. Ed. 2d 1008 (2005).

Where two Circuits are applying vastly different standards to the application of a sentencing enhancement, this Court must provide guidance. The Fourth Circuit requires no showing of content, context, or intent, while the Fifth Circuit maintains an exacting standard aimed at avoiding unjust imposition of sentences that are greater than necessary. *See* 18 U.S.C. § 3553.

CONCLUSION

For the reasons set for above, Mr. Pierre-Paul respectfully prays that his petition for a writ of certiorari be granted.

Respectfully Submitted,

STEPHEN PIERRE-PAUL
By Counsel

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APPENDIX

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UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-4190

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

STEPHEN J. PIERRE-PAUL,

Defendant - Appellant.

No. 22-4191

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

WAYNE RICARDO TAYLOR,

Defendant - Appellant.

Appeals from the United States District Court for the Eastern District of Virginia, at Alexandria. T. S. Ellis, III, Retired District Judge. (1:21-cr-00144-TSE-2; 1:21-cr-00144-TSE-4)

Submitted: October 29, 2024 Decided: January 7, 2025

Before RICHARDSON, BENJAMIN, and BERNER, Circuit Judges.

Affirmed by unpublished per curiam opinion.

ON BRIEF: Lana Manitta, LAW OFFICE OF LANA MANITTA, PLLC, Purcellville, Virginia, for Appellant Stephen J. Pierre-Paul. Robert L. Jenkins, Jr., BYNUM & JENKINS, PLLC, Alexandria, Virginia, for Appellant Wayne Ricardo Taylor. Jessica D. Aber, United States Attorney, Richmond, Virginia, Ronald L. Walutes, Assistant United States Attorney, Jacqueline R. Bechara, Assistant United States Attorney, OFFICE OF THE UNITED STATES ATTORNEY, Alexandria, Virginia, for Appellee.

Unpublished opinions are not binding precedent in this circuit.

PER CURIAM:

In these consolidated appeals, Stephen J. Pierre-Paul and Wayne Ricardo Taylor appeal their convictions and sentences after a jury trial for carjacking, and aiding and abetting such conduct, in violation of 18 U.S.C. §§ 2119, 2, obstructing commerce by robbery, and aiding and abetting such conduct, in violation of 18 U.S.C. §§ 1951(a), 2, and using and carrying a firearm during and in relation to a crime of violence, and aiding and abetting such conduct, in violation of 18 U.S.C. §§ 924(c)(1)(A), 2. We affirm.

The Appellants assert that the trial evidence was insufficient to show that they aided and abetted the carjacking, robbery, and possession of a firearm in furtherance of a crime of violence. We view the evidence in the light most favorable to the Government to determine whether the guilty verdicts are supported by substantial evidence. *United States v. Bailey*, 819 F.3d 92, 95 (4th Cir. 2016). Substantial evidence is "evidence that a 'reasonable finder of fact could accept as adequate and sufficient to support a conclusion of a defendant's guilt beyond a reasonable doubt.'" *Id.* (quoting *United States v. Wilson*, 198 F.3d 467, 470 (4th Cir. 1999) (internal quotation marks omitted)). "In determining whether there is substantial evidence to support a verdict, [this Court] defer[s] to the jury's determinations of credibility and resolutions of conflicts in the evidence, as they 'are within the sole province of the jury and are not susceptible to judicial review.'" *United States v. Louthian*, 756 F.3d 295, 303 (4th Cir. 2014) (quoting *United States v. Lowe*, 65 F.3d 1137, 1142 (4th Cir. 1995)). In fact, this Court must assume that the jury resolved all contradictions in testimony in the Government's favor. *United States v. Freitekh*, 114 F.4th 292, 308 (4th Cir. 2024). "'[I]f the evidence supports different, reasonable interpretations,

the jury decides which interpretation to believe.'" *United States v. McLean*, 715 F.3d 129, 137 (4th Cir. 2013) (quoting *United States v. Burgos*, 94 F.3d 849, 862 (4th Cir. 1996) (en banc)).

We have reviewed the record including the trial testimony and conclude that substantial evidence supports the convictions. Viewing the evidence in the light most favorable to the government, we conclude that the testimony supports the jury's finding that the Appellants had roles in aiding and abetting the carjacking and robbery. And the evidence shows that the Appellants had advance knowledge that a firearm would be employed in furtherance of the crimes. *See Rosemond v. United States*, 572 U.S. 65, 67, 78 (2014) (setting requirement that defendant have advanced knowledge that a firearm would be used).

We also conclude that there was no plain error in the district court's admission of evidence showing the Appellants' consciousness of guilt. *See United States v. Hart*, 91 F.4th 732, 741 (4th Cir. 2024) (noting that witness intimidation can be evidence of consciousness of guilt). And we conclude that the court did not err in applying the Sentencing Guidelines' enhancement for obstruction of justice. U.S. Sentencing Guidelines Manual § 3C1.1 (2018). The court's finding that the Appellants' statements to the witness were clearly intimidating is not clearly erroneous.

Accordingly, we affirm the convictions and sentences. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

AFFIRMED

FILED: January 7, 2025

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 22-4190 (L)
(1:21-cr-00144-TSE-2)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

STEPHEN J. PIERRE-PAUL

Defendant - Appellant

No. 22-4191
(1:21-cr-00144-TSE-4)

UNITED STATES OF AMERICA

Plaintiff - Appellee

v.

WAYNE RICARDO TAYLOR

Defendant – Appellant

J U D G M E N T

In accordance with the decision of this court, the judgments of the district court are affirmed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ NWAMAKA ANOWI, CLERK